

E-filed 10/6/06

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10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN JOSE DIVISION

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 14 UNITED STATES OF AMERICA,) No. CR 05-00389 JF
 15 Plaintiff,) STIPULATION REGARDING
 16 v.) CONTINUANCE OF STATUS
 17 GILBERT GONCALVES,) CONFERENCE AND EXCLUDABLE
 18 Defendant.) TIME AND [PROPOSED] ORDER

19 It is hereby stipulated and agreed between defendant Gilbert Goncalves, through his
 20 counsel H. Dean Steward, and the United States, through government counsel Assistant United
 21 States Attorney Hanley Chew, that trial in this matter be continued to Friday, November 10,
 22 2006, at 10:00 a.m., that the status conference be continued until October 25, 2006, at 9:00 a.m.,
 23 and that time be excluded from October 27, 2006 through November 10, 2006, under the Speedy
 24 Trial Act, 18 U.S.C. § 3161, et seq., for the reasons set forth below:

25 1. The government has provided defendant with more than 2,200 pages of discovery
 26 as well as more than 30 tapes containing recorded conversations involving defendant. Because
 27 defense counsel has been involved in a death penalty trial for the past several months, the
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STIPULATION REGARDING CONTINUANCE OF STATUS CONFERENCE AND EXCLUDABLE TIME AND
 [PROPOSED] ORDER
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defense therefore needs additional time to review this discovery and investigate facts related to this discovery.

2. In addition, defense counsel is scheduled to participate in a hearing in the death penalty case that he is handling before Judge Carter on October 11, 2006. As a result, the defense requests this continuance so that defense counsel has sufficient time to prepare in light of both the discovery and his other federal trial commitments and allow sufficient time to consult with the defendant to afford both adequate time for preparation for trial.

3. Moreover, the parties have discussed a resolution of this case and have reached a tentative disposition, pending approval from the Department of Justice. The government is still waiting for approval from the Department of Justice for the disposition and anticipates that the additional time will enable it to obtain the necessary approval.

Based on the foregoing, the parties therefore stipulate and move the Court to continue the status conference from October 11, 2006 at 9:00 a.m. to October 24, 2006, at 9:00 a.m., and the trial from October 27, 2006 to November 10, 2006. The parties further stipulate to exclude the time from October 27, 2006 through November 10, 2006 under the Speedy Trial Act because the parties believe that the ends of justice served by the granting of such a continuance outweigh the best interests of the public and the defendant in a speedy trial, particularly since reasonable time is needed for the defense to prepare for pretrial and trial matters and for continuity of counsel, pursuant to 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(iv).

IT IS SO STIPULATED.

Dated: September 28, 2006

KEVIN V. RYAN
United States Attorney

Dated: September 28, 2006

/s/ Hanley Chew
HANLEY CHEW
Assistant United States Attorney

STIPULATION REGARDING CONTINUANCE OF STATUS CONFERENCE AND EXCLUDABLE TIME AND

[PROPOSED] ORDER

1 Based upon the foregoing Stipulation and good cause appearing therefor,

2 **IT IS HEREBY ORDERED** that the status conference set for October 11, 2006 is

3 continued to October 25, 2006 at 9:00 a.m. and the trial set for October 27, 2006 is continued to

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5 November 10, 2006. In addition, the time from October 27, 2006 through November 10, 2006

6 shall be excluded from the computation period within which the trial must commence, for the

7 reasons and based upon the statutory provisions set forth by the parties in this Stipulation,

8 including that time is needed for effective defense preparation and for continuity of counsel. The

9 Court independently finds that the ends of justice outweigh the interests of the public and the

10 parties in a speedier trial based upon the grounds set forth above.

11 DATED: October 6, 2006

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14 THE HONORABLE JEREMY FOGEL
15 United States District Judge
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